

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

**ROBERT WILLIAM PETTY,**

**Petitioner,**

**v.**

**Civil Action No. 2:09cv100**

**JAMES CROSS, Warden,**

**Respondent.**

**ORDER**

It will be recalled that on August 20, 2009, Magistrate Judge David J. Joel filed a Report and Recommendation on Petitioner's Application and Motion for Leave to Proceed In Forma Pauperis. The Petitioner was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. The Petitioner filed no objections and paid the \$5.00 filing fee on August 24, 2009. Accordingly, the Court will proceed with consideration of the Report and Recommendations, reviewing for clear error.<sup>1</sup>

Upon examination and review for clear error of the Magistrate's August 20, 2009 report, the Court is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court regarding the Petitioner Application and Motion for Leave to Proceed In Forma Pauperis. Therefore, it is

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<sup>1</sup>The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

**ORDERED** that Magistrate Judge Joel's Report and Recommendations be, and the same hereby are, accepted in whole. Accordingly, it is

**ORDERED** that Petitioner's Application and Motion for Leave To Proceed In Forma Pauperis shall be, and the same hereby is, **DENIED**. As earlier noted, Petitioner has now paid the filing fee. Accordingly, this civil action shall continue to progress in its normal course.

**ENTER:** February 8<sup>th</sup>, 2010

/s/ Robert E. Maxwell  
United States District Judge